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THOMAS P. ANDERSON, and KEN PECUS

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

SDMS, INC., THOMAS P. ANDERSON, and KEN PECUS, Plaintiffs,	) Case No.: 08cv833 JM AJB ) ) PLAINTIFFS' WITHDRAWAL OF THEIR ) SECOND AMENDED COMPLAINT FOR ) INJUNCTIVE RELIEF, DECLARATORY ) RELIEF AND DAMAGES (DOC. 13) ) )
vs.	)
ROCKY MOUNTAIN CHOCOLATE FACTORY INC.,	) Second Amended Complaint Filed: August 07, 2008 ) )
Defendant.	)

Pursuant to two telephone conversations had between the Clerk of the Court and Plaintiffs' counsel, SDMS, INC., THOMAS P. ANDERSON, and KEN PECUS, hereby formally withdraw their Second Amended Complaint for Injunctive Relief, Declaratory Relief and Damages (Doc. 13). Plaintiffs will await the Court's decision on Rocky Mountain Chocolate Factory, Inc.'s Motion to Dismiss, taken under submission on August 1, 2008, prior to filing any additional papers seeking to amend Plaintiffs' complaint.

Dated this 8<sup>th</sup> day of August, 2008.

LYNN & FORTUNE, LLP

s/ Rebecca J. Fortune

Rebecca J. Fortune

Attorney for Plaintiffs,

SDMS, Inc., Thomas P. Anderson and Ken Pecus.